



**UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
08/838,548	04/09/97	GINES	D PC9743ALP

JOHN C. ANDRES  
CHIEF PATENT COUNSEL/LEGAL DEPT.  
U. S. SURGICAL CORPORATION  
150 GLOVER AVENUE  
NORWALK CT 06856

QM41/1002

EXAMINER	
MANTIS,E	
ART UNIT	PAPER NUMBER
3737	

DATE MAILED:

10/02/98

#7

Please find below a communication from the EXAMINER in charge of this application.

Commissioner of Patents

# Office Action Summary

Application No.  
**08/838,548**

Applicant(s)  
**Gines**

Examiner  
**Eleni Mantis Mercader**

Group Art Unit  
**3737**



☒ Responsive to communication(s) filed on Jul 2, 1998

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-9 and 11-17 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-9 and 11-17 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 3305

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 1-9 and 11-17 have been considered but are moot in view of the new ground(s) of rejection. Nardella'896 teaches a power controller electrically connected to the measurement circuit and electrically connected to the input, wherein the controller has means for changing the electrical impedance by adjusting the input in response to the measure (col. 10, lines 16-45, claim 1). It is inherent that by the power control means changing the electrical impedance by adjusting the input in response to the measure, it in effect induces oscillations of the electrical impedance.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

3. Claims 1-9 and 11-17 are rejected under 35 U.S.C. 102(e) as being anticipated by Nardella'896.

Art Unit: 3305

Nardella'896 discloses an electrosurgical generator for applying out put power to a load having an electrical impedance, the electrosurgical generator comprising:

an impedance measurement circuit electrically connected to the load for producing a measure indicative of the electrical impedance; an RF output stage connected to the load for applying output power to the load, the RF output stage having an input for adjusting the value; and a power controller electrically connected to the measurement circuit and electrically connected to the input, wherein the controller has means for changing the electrical impedance by adjusting the input in response to the measure (col. 10, lines 16-45, claim 1). It is inherent that by the power control means changing the electrical impedance by adjusting the input in response to the measure, it in effect induces oscillations of the electrical impedance.

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Klicek'312 teaches an impedance and temperature generator control.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eleni Mantis Mercader whose telephone number is (703) 308-0899. The examiner's supervisor, Mr. Marvin Lateef, can be reached on (703) 308-3256.

Serial Number: 08/838,548

Page 4

Art Unit: 3305

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0858. The fax phone number for this group is (703) 305-3590.



EMM

September 28, 1998.